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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 267.

GEORGE H. MIFFLIN, JAMES MURRAY KAY, HENRY O. HOUGHTON, INDIVIDUALLY AND AS TRUSTEE WITH ALBERTA M. HOUGHTON UNDER THE WILL OF HENRY O. DUTTON, DECEASED, ET AL., &c., APPELLANTS,

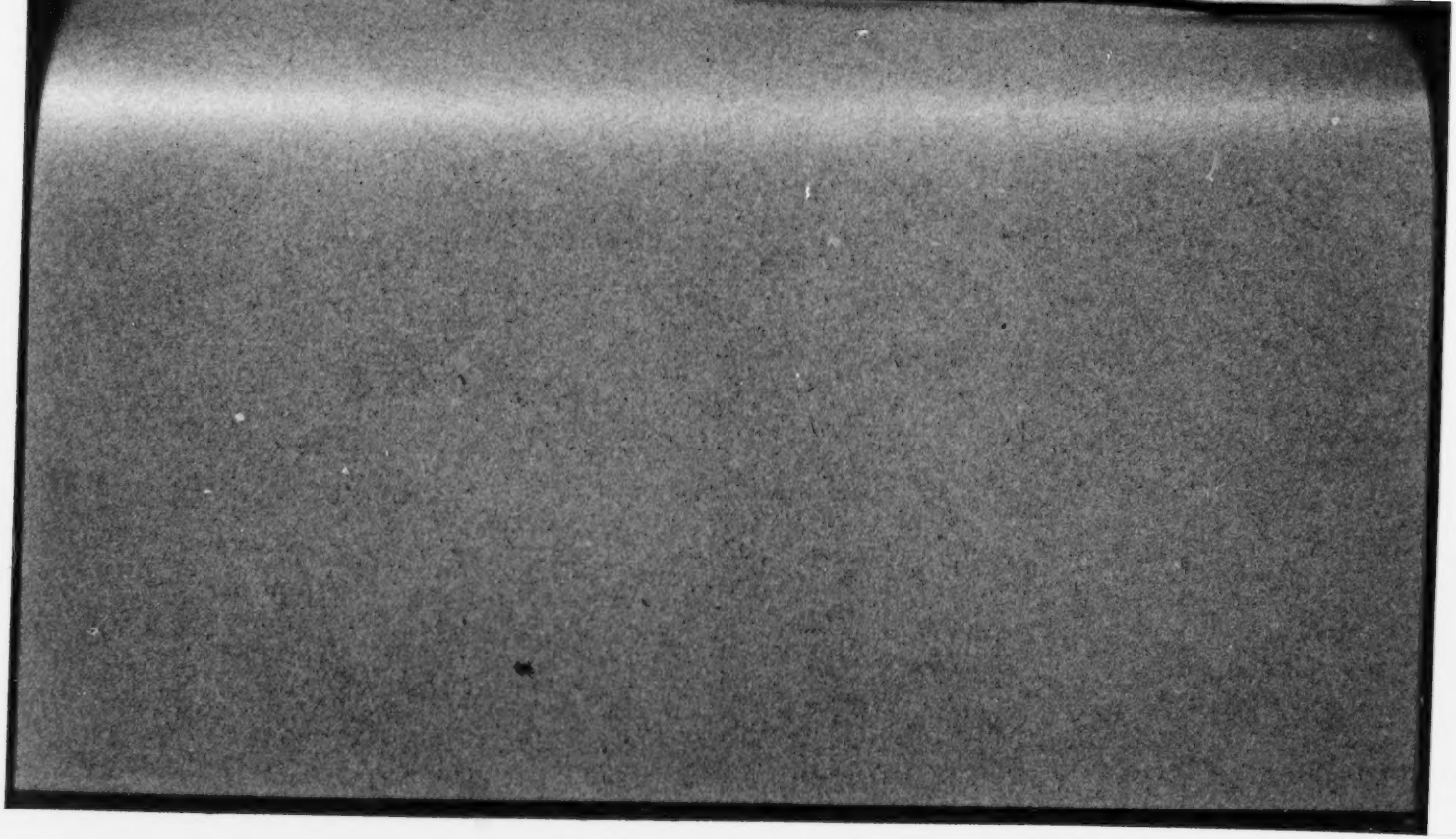
vs.

BENJAMIN F. DUTTON, GEORGE C. DUTTON, AND HARRY DUTTON, COPARTNERS UNDER THE FIRM NAME AND STYLE OF HOUGHTON & DUTTON.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT.

FILED MARCH 7, 1902.

(18,441.)



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a United States Circuit Court of Appeals for the First Circuit, October Term, 1901.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, Appellees. } No. 387.

Appeal from the circuit court of the United States for the district of Massachusetts from final decree (Colt, J.), March 29, 1901.

Transcript of record upon the appeal of George H. Mifflin *et al.*, complainants, appellants, in the above-entitled cause, to the Supreme Court of the United States.

1 United States Circuit Court of Appeals for the First Circuit, October Term, 1901.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, Appellees. } No. 387.

Transcript of Record of Circuit Court.

(Filed in circuit court of appeals May 31, 1901.)

UNITED STATES OF AMERICA,
District of Massachusetts, } *ss:*

At a circuit court of the United States for the first circuit, begun and holden at Boston, within and for the district of Massachusetts, on Monday, the fifteenth day of October, in the year of our Lord one thousand nine hundred.

Before the Honorable Le Baron B. Colt, circuit judge.

GEORGE H. MIFFLIN ET AL., Complainants,
v.
BENJAMIN F. DUTTON ET AL., Defendants. } No. 1290. Equity.

The bill of complaint in this cause was filed in the clerk's office on the twenty-seventh day of February, A. D. 1900, and was duly entered at the October term of this court, A. D. 1899, and is in the words and figures following:—

2 Circuit Court of the United States, District of Massachusetts.
In Equity.

GEORGE H. MIFFLIN ET AL.
v.
BENJAMIN F. DUTTON ET AL. } No. 1290.

Bill of Complaint.

(Filed Feb. 27, 1900.)

To the honorable the judges of the circuit court of the United States in and for the district of Massachusetts, sitting in equity:

George H. Mifflin, of Boston, James Murray Kay, of Brookline, Henry O. Houghton, individually and as trustee with Alberta M. Houghton, both of Cambridge, under the will of Henry O. Houghton, deceased, all within the district of this court, and Lucy H. Valentine, Oscar R. Houghton and Albert F. Houghton, all of New York, in the State of New York, and all citizens of the United States, copartners under the firm name of Houghton, Mifflin & Company, and having a usual place of business in said Boston, bring this their bill of complaint against Benjamin F. Dutton and George C. Dutton, both of Malden, and Harry Dutton, of Medford, all in the State of Massachusetts, and within the district of this court, who are doing business in Boston as copartners under the firm name and style of Houghton & Dutton.

And your orators show unto your honors, upon information and belief, that during the years 1858 and 1859 Harriet Beecher Stowe was a citizen of the United States and a resident within the district of Massachusetts, and the authoress of a certain literary work entitled "The Minister's Wooing," and that during the year 1858

3 the firm of Phillips, Sampson & Company was engaged in the publishing business in the city of Boston and State of Massachusetts, and was the proprietor and publisher of a certain periodical magazine published each month at said city of Boston and entitled and known as the "Atlantic Monthly," and having a large circulation; and that thereafter said firm continued to be the proprietor and publisher of said magazine until the sale and assignment thereof to the firm of Ticknor & Fields in the fall of the year 1859, as hereinafter stated.

And your orators further say that said literary work entitled "The Minister's Wooing" consisted of forty-two chapters; that the first twenty-nine chapters of said work were published in print, under the title "The Minister's Wooing," in and as a part of eleven numbers of the said "Atlantic Monthly," to wit, those for December, 1858, and each successive month thereafter down to and including the month of October, 1859, by the said firm of Phillips, Sampson & Company, at the said city of Boston, prior to the twenty-eighth day of September, 1859; and that the remaining thirteen chapters of said work were published in print, under the title "The Minister's Wooing," n and as a part of the numbers of the said "Atlantic Monthly" for

the months of November, 1859, and December, 1859, by the said firm of Ticknor & Fields at the said city of Boston, between Oct. 21, 1859, and Nov. 23, 1859.

And your orators further say that each of said thirteen numbers of the "Atlantic Monthly" was a volume bound in paper of about one hundred and twenty-eight printed pages, and consisted of the part of the said work entitled "The Minister's Wooing," therein published as aforesaid, and other literary compositions.

And your orators further say, upon information and belief, that prior to the twenty-eighth day of September, 1859, said firm of Phillips, Sampson & Company did, at said city of Boston, publish in print said eleven numbers of the "Atlantic Monthly" for December, 1858, and each successive month thereafter, down to and including the month of October, 1859, and did, prior to Sept. 28, 1859, sell to the public, at said city of Boston, thousands of printed copies of each of said numbers of the "Atlantic Monthly."

And your orators further say, upon information and belief, that between the twenty-first day of October, 1859, and the twenty-
4 third day of November, 1859, the said firm of Ticknor & Fields did, at the said city of Boston, publish in print said numbers of the "Atlantic Monthly" for the months of November, 1859, and December, 1859, and did, between Oct. 21, 1859, and Jan. 1, 1860, sell to the public, at said city of Boston, thousands of printed copies of each of said two numbers of the "Atlantic Monthly."

And your orators further say, upon information and belief, that said twenty-nine chapters of said work entitled "The Minister's Wooing," which were printed, published and sold as aforesaid by said firm of Phillips, Sampson & Company in said eleven numbers of the "Atlantic Monthly" for December, 1858, and each successive month thereafter, down to and including the month of October, 1859, were so printed, published and sold by Phillips, Sampson & Company by and with the consent and authority of the said Harriet Beecher Stowe, and under and in accordance with an agreement made by and between the said Harriet Beecher Stowe and said firm of Phillips, Sampson & Company, whereby, for a valuable consideration, the said Harriet Beecher Stowe granted to said firm of Phillips, Sampson & Company the right and privilege to print, publish and sell said work entitled "The Minister's Wooing" in the numbers of the "Atlantic Monthly" for the month of December, 1858, and each successive month thereafter, until the publication thereof was completed. A further agreement was made between said Harriet Beecher Stowe and said firm of Phillips, Sampson & Company on July 27, 1859, of which a copy is hereto annexed and marked "Exhibit A."

And your orators further say, upon information and belief, that after the publication as aforesaid of the number of the "Atlantic Monthly" for October, 1859, and prior to the publication as aforesaid of the number of the "Atlantic Monthly" for the month of November 1859, the duly appointed assignees in insolvency of the said firm of Phillips, Sampson & Company, the said firm having failed in business, with the assent of said Harriet Beecher Stowe, did sell and assign all the interest of Phillips, Sampson & Company in

the said "Atlantic Monthly" and in their said agreements with Harriet Beecher Stowe, as well as their right to publish "The Minister's Wooing" in said "Atlantic Monthly," to the said
5 firm of Ticknor & Fields, who were at that time engaged in the publishing business in the city of Boston, and that said firm of Ticknor & Fields, for several years immediately subsequent to said sale and assignment was the proprietor and publisher of said "Atlantic Monthly" and published the same in said city of Boston.

And your orators further say, upon information and belief, that said thirteen chapters of said work entitled "The Minister's Wooing" which were printed, published and sold as aforesaid by said firm of Ticknor & Fields in said two numbers of the "Atlantic Monthly" for the months of November, 1859, and December, 1859, were so printed, published and sold by said firm of Ticknor & Fields by and with the consent and authority of said Harriet Beecher Stowe, and under and in accordance with the said agreements between her and said Phillips, Sampson & Company, theretofore assigned to said firm of Ticknor & Fields as aforesaid.

And your orators further say, that the said Harriet Beecher Stowe, to secure a copyright in said literary work entitled "The Minister's Wooing," did on the fourteenth day of October, 1859, and after the publication as aforesaid of the first twenty-nine chapters of said work in said numbers of the "Atlantic Monthly," and before the publication of said literary work in separate book form, deposit in her name a printed copy of the title of such work, to wit, "The Minister's Wooing," in the clerk's office of the district court for the district of Massachusetts, being the district in which the said authoress of said literary work at the time resided, and the clerk of such court did record the said title in the words of the statute then in the premises obtaining, and the said Harriet Beecher Stowe did on the nineteenth day of October, 1859, cause to be delivered to the said clerk of the district court a complete copy of said book, the title of which had been recorded.

And your orators further say, upon information and belief, that the said Harriet Beecher Stowe inserted in the several copies of every edition, subsequently published in separate book form, of said book entitled "The Minister's Wooing," on the page immediately following the title page, the following words: "Entered according to act of Congress in the year 1859, by Harriet Beecher Stowe, in
6 the clerk's office of the district court of the district of Massachusetts;" except that in the editions published after June, 1874, the notice of copyright was in the following words: "Copyright 1859 by Harriet Beecher Stowe;" and, also, except that no notice of copyright was given in any copy of any edition published of said number of the "Atlantic Monthly," for November, 1859, or of said number of the "Atlantic Monthly," for December, 1859, in any words other than the following: "Entered according to act of Congress in the year 1859, by Ticknor & Fields, in the clerk's office of the district court of the district of Massachusetts," and except as hereinafter stated.

And your orators further say, upon information and belief, that

said Harriet Beecher Stowe published in print the whole of said work entitled "The Minister's Wooing" in separate book form at the city of New York on the fifteenth day of October, 1859, before the publication of said November, 1859, and December, 1859, numbers of the "Atlantic Monthly."

And your orators further say, upon information and belief, that in respect of the thirteen chapters of said literary work entitled "The Minister's Wooing," which were published as aforesaid in the numbers of the "Atlantic Monthly," for November, 1859, and December, 1859, the said Ticknor & Fields inserted in the several copies of every edition published of the numbers of the "Atlantic Monthly," for November, 1859, and December, 1859, on the page immediately following the title page, the following words: "Entered according to act of Congress in the year 1859, by Ticknor & Fields, in the clerk's office of the district court of the district of Massachusetts," and in addition, on the page of each of said November, 1859, and December, 1859, numbers of said magazine, on which the instalment therein published of said literary work entitled "The Minister's Wooing" began, a further notice at the bottom of the page as follows: "Copyright secured by the author in Great Britain and France;" no other notice of copyright was given in any copy of any edition published of said number of the "Atlantic Monthly" for November, 1859, or of said number of the "Atlantic Monthly" for December, 1859.

And your orators further say, upon information and belief, that on the thirtieth day of June, 1887, the said Harriet Beecher Stowe recorded the title of "The Minister's Wooing" a second time,
7 and deposited in the mail, addressed to the Librarian of Congress at Washington, D. C., a printed copy of the title of said book, and the said librarian did forthwith record the title of said book, to wit, "The Minister's Wooing," in a book kept for that purpose; and that said Harriet Beecher Stowe did also cause a copy of the record last aforesaid to be published in the *Publisher's Weekly*, a weekly newspaper published in the city of New York, in the issues of said paper for July 23, Aug. 6, Aug. 13 and Aug. 20, 1887; and did also on Aug. 6, 1887, deposit two copies of said work with the Librarian of Congress. And the said Harriet Beecher Stowe caused to be inserted in the several copies of each and every edition thereafter published of said work entitled "The Minister's Wooing," on the page immediately following the title page, in addition to the notice hereinbefore set forth, a notice as follows: "Copyright, 1887, by Harriet Beecher Stowe."

And your orators further say, that on the twenty-fourth day of February, 1896, the said Harriet Beecher Stowe executed and delivered to your orators an assignment in writing, of which a copy is hereunto annexed and marked "Exhibit B."

And your orators further say, that since the first day of October, 1899, without the consent and against the will of your orators, the defendants have sold, and continue to sell copies of the whole of the aforesaid work entitled "The Minister's Wooing," all of which copies were copied by the defendants from said thirteen numbers of the

"Atlantic Monthly," and were exact copies, word for word, of said forty-two chapters of "The Minister's Wooing," which were printed and published in the aforesaid numbers of the "Atlantic Monthly," and none of said copies contained any other or additional matter whatsoever.

In consideration whereof, and because your orators cannot have adequate relief except in a court of equity, and to the end that the said Benjamin F. Dutton, George C. Dutton and Harry Dutton may answer all and singular the matters and things hereinbefore set forth and complained of, and that the said Benjamin F. Dutton, George C. Dutton and Harry Dutton be restrained by injunction, as well perpetually as during the pendency of this suit, from selling and from exposing for sale copies of the said piratical and unlawful
8 book; and that said Benjamin F. Dutton, George C. Dutton and Harry Dutton may be required to account to your orators for all such books so sold by them, and to pay over to your orators the profits which they have made, and the damages which they have caused to your orators by their said wrongful acts; and that your orators may have such further relief in the premises as may seem equitable, and as the nature of the case may require:

May it please your honors to grant, not only writs of injunction conformable to the prayer of this bill, but also a writ of subpœna directed to the said Benjamin F. Dutton, George C. Dutton and Harry Dutton, commanding them to be and appear before this honorable court, then and there to answer the premises, and to do and receive what to your honors may seem meet in the premises.

HOUGHTON, MIFFLIN & CO.,
By JAMES MURRAY KAY.

ELDER, WAIT & WHITMAN, *Of Counsel.*

UNITED STATES OF AMERICA, }
District of Massachusetts, County of Suffolk, } *ss:*

On the nineteenth day of February, 1900, personally appeared James Murray Kay and made oath that he is one of the firm of Houghton, Mifflin & Company, as set forth in the foregoing bill, that he has read said bill of complaint and knows the contents thereof, and the same is true to the best of his knowledge and belief.

Before me,

[SEAL.] EDMUND A. WHITMAN,
Notary Public.

EXHIBIT A.

Memorandum of an agreement made and entered into this twenty-seventh day of July, A. D. 1859, by and between Calvin E. Stowe and Mrs. Harriet Beecher Stowe, on the one part, and Phillips, Sampson & Company, on the other part.

Whereas the said Mrs. H. B. Stowe is the author of and with the said Calvin E. Stowe owns the copyright of and right to pub-
9 lish, a novel called "The Minister's Wooing," the publication of which commenced in the "Atlantic Monthly" of Decem-

ber, 1858, and is to be continued each month till November, 1859, inclusive, making in all twelve numbers of the magazine, it is now agreed between the parties to this contract,—

First. That the said C. E. Stowe and Mrs. H. B. Stowe shall receive for each monthly instalment of the said work the sum of two hundred dollars in cash.

Second. That on or before the completion of said work in the "Atlantic Monthly," the said Phillips, Sampson & Company shall cause the same to be stereotyped in book form, and, having done so, they shall have the sole and exclusive right to publish the same in this country.

Third. That the said Phillips, Sampson & Company shall keep a true and accurate account of all the expenses attending the stereotyping, advertising and publishing said work in book form, and shall render an account of said expenses and of the sale of said book six months after its first day of publication in book form, and at periods of six months thereafter, paying to the said C. E. Stowe and Mrs. H. B. Stowe one-half of the net profits in notes of the said Phillips, Sampson & Company, made payable at four months from date of each settlement.

Fourth. That the said Phillips, Sampson & Company hereby guarantee and agree that the share of profits to be received by the said C. E. Stowe and Mrs. H. B. Stowe under the arrangement as above shall not be less than the sum of twenty-five hundred dollars.

Fifth. That this contract shall continue in full and binding force for the term of five years from the date before mentioned.

In witness whereunto we have hereunto set our hands this twenty-seventh day of July, 1859, at Boston, in the Commonwealth of Massachusetts.

CALVIN E. STOWE.
HARRIET B. STOWE.
PHILLIPS, SAMPSON & CO.

Witness:
F. H. UNDERWOOD.

10 EXHIBIT B.

For and in consideration of the sum of one dollar, to me in hand paid by Houghton, Mifflin & Company, of Boston, in the Commonwealth of Massachusetts, and for other good and lawful considerations, the receipt of which is hereby acknowledged, I, Harriet Beecher Stowe, of Hartford, Conn., hereby assign to said Houghton, Mifflin & Company all my right, title and interest in and to the copyright of the following-named books, written by me, in and for the United States of America, to wit: Uncle Tom's Cabin; A Story of Slavery; Agnes of Sorrento; The Pearl of Orr's Island; The Minister's Wooing; My Wife and I; We and Our Neighbors; A Sequel to My Wife and I; Poganuc People; The Mayflower and Other Sketches; Dred (Nina Gordon); Oldtown Folks; Sam Lawson's Fireside Stories; House and Home Papers; Little Foxes; Common Household Thoughts; The Chimney Corner; Little Pussy

Willow; also, The Minister's Watermelon; A Dog's Mission, or The Story of the Old Avery Home and Other Stories; Queer Little People; Religious Poems; Palmetto Leaves; Sketches of Florida; Lady Byron Vindicated; Sunny Memories of Foreign Lands; Betsy's Bright Idea and Other Stories; and all contributions to the "Atlantic Monthly," not included in the above enumeration, to have and to hold for the benefit of said Houghton, Mifflin & Company, their legal representatives and assigns, for the whole duration of the copyrights of said works and any renewals thereof.

Witness my hand and seal this twenty-fourth day of February, 1896.

HARRIET BEECHER STOWE,
By her attorneys-in-fact, CHARLES E. STOWE.
Miss H. B. STOWE.
E. T. STOWE.

The within assignment of copyright is this day recorded in the office of the Librarian of Congress, in conformity with the laws of the United States respecting copyrights.

Witness my hand and the seal of my office this second day of April, A. D. 1896.

[SEAL.] A. R. SPOFFORD,
Librarian of Congress.

11 At the same term the following demurrer was filed:

Demurrer.

(Filed March 30, 1900.)

The joint and several demurrer of Benjamin F. Dutton, George C. Dutton, and Harry Dutton, the above-named defendants, to the bill of complaint of the above-named complainants.

These defendants, by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are therein set forth and alleged, do demur to the said bill, and for cause of demurrer show that the said complainants have not by their said bill made or stated such a case as entitles them or any of them in a court of equity to any relief against these defendants or any of them as to the matters contained in this said bill or any of such matters.

And for further and more specific grounds of demurrer, these defendants show:

First. That it does not appear by the said bill of complaint that Harriet Beecher Stowe deposited a printed copy of the title of "The Minister's Wooing" in the clerk's office of the district court for the district of Massachusetts before the publication of said work.

Second. That it does not appear by the said bill of complaint that notice of the entry of "The Minister's Wooing" for copyright was inserted in the several copies of every edition published of said work.

Third. That it affirmatively appears by the said bill of complaint that twenty-nine chapters of the work entitled "The Minister's Wooing" were published by the consent and under the authority of Harriet Beecher Stowe before she deposited a printed copy of the title of said work in the clerk's office of the district court for the district of Massachusetts, and that the remaining thirteen chapters of said work were published in and as part of the two numbers of the "Atlantic Monthly," for November, 1859, and December, 1859, respectively, by the consent and under the authority of Harriet Beecher Stowe prior to Nov. 25, 1859, and that no information of copyright being secured by Harriet Beecher Stowe in "The
12 Minister's Wooing" was given in any published copy of either of said two numbers of the "Atlantic Monthly" or of any number thereof.

Wherefore, and for divers other good causes of demurrer appearing in the said bill, these defendants demur thereto and they pray the judgment of this honorable court whether they shall be compelled to make any further or other answer to the said bill; and they humbly pray to be hence dismissed with their reasonable costs in this behalf sustained.

RALPH W. FOSTER,
Solicitor and of Counsel for Defendants,
53 *State Street, Boston.*

I hereby certify that I am of counsel for the defendants in the above-entitled cause, and that in my opinion the foregoing demurrer is well founded in law and proper to be filed in the above cause.

RALPH W. FOSTER,
Of Counsel for Defendants.

Boston, March 24, 1900.

STATE OF MASSACHUSETTS, } ss:
County of Suffolk, }

Harry Dutton, being duly sworn, deposes and says that he has read the foregoing demurrer to the bill of complaint in this suit, and that the same is not interposed for the purpose of delay.

HARRY DUTTON.

Subscribed and sworn to before me this twenty-eighth day of March, 1900.

[SEAL.] RALPH W. FOSTER,
Notary Public.

This cause was thereupon, to wit, May 1, 1900, set down for hearing and was heard in part by the court, on demurrer, the Honorable Le Baron B. Colt, circuit judge, sitting.

Also at the same term the following amendment to bill of complaint was filed and allowed by consent:—

Amendment to Bill of Complaint.

(Filed and allowed by consent May 2, 1900.)

Now come the plaintiffs in the above-entitled case and move to amend their bill by adding thereto, in the twenty-first line of the fourth page of the printed record, before the words "said literary work," the following—"the said remaining thirteen chapters of;" and by striking out in the same line the words "in separate book form," so that said line shall read as amended, "publication of said remaining thirteen chapters of said literary work, deposit in;" and further to amend the thirty-third line of said fourth page of said printed record by omitting therefrom the words "in separate book form," so that said line shall read "every edition, subsequently published, of said;" and further by striking out the word "in" in the seventeenth line of page 5 of said printed record, and all of the eighteenth, nineteenth and twentieth lines of said page 5, and the figures "1859" on the twenty-first line of said page 5, and
13 inserting in lieu thereof the following: "After the publication in print in separate book form by Harriet Beecher Stowe of the whole of said work entitled 'The Minister's Wooing,' the said firm of Ticknor & Fields did deposit in the name of Ticknor & Fields a printed copy of the title of each of said numbers of the *Atlantic Monthly* for November, 1859, and December, 1859, in the clerk's office of the district court of Massachusetts, being the district in which said Harriet Beecher Stowe and also the partners in said firm of Ticknor & Fields at the time resided; and that the said clerk did thereupon record the said titles in the words of the statute then in the premises obtaining; and."

By their solicitors, ELDER, WAIT & WHITMAN.

This cause was thence continued to the May term, A. D. 1900, when the following amendment to demurrer was filed and allowed by consent:—

Amendment to Demurrer.

(Filed and allowed by consent May 23, 1900.)

Now come the defendants in the above-entitled cause and move to amend their demurrer by adding after the word "thereof" on the second line of the eleventh page of the printed record the following: "and that by reason of the omission of the name of Harriet Beecher Stowe in the notices of copyright inserted in the published copies of said two numbers of the *Atlantic Monthly* for November, 1859, and December, 1859, respectively, the requirement of the statute was not complied with in respect to notice of the copyright alleged to have been entered by Harriet Beecher Stowe in 'The Minister's Wooing;' and that said numbers of the *Atlantic Monthly* for November, 1859, and December, 1859, were entered for copyright after the publication of the whole of 'The Minister's Wooing,'" and for that reason the copyrights attempted to be taken out on said two

magazine numbers were invalid as to the parts of "The Minister's Wooing" therein embodied.

By their solicitor, RALPH W. FOSTER.

14 On the sixth day of June, A. D. 1900, the hearing on the demurrer and the amendment thereto was concluded, the Honorable Le Baron B. Colt, circuit judge, sitting as aforesaid.

This cause was thence continued to the present October term A. D. 1900, when the opinion of the court is announced and the following final decree is entered:—

Final Decree, March 29, 1901.

COLT, *J.*:

This cause came on to be heard at this term and was argued by counsel for the respective parties, and thereupon, it is ordered, adjudged and decreed that the amended demurrer to the amended bill of complaint herein be and the same is hereby sustained, and that the said amended bill of complaint be and the same is hereby dismissed with costs to the defendants taxed at forty-eight dollars and twenty-six cents ($48.26).

By the court,

BENJ. H. BRADLEE,
Deputy Clerk.

From the final decree the complainants claim an appeal to the United States circuit court of appeals for the first circuit, and give good and sufficient security that they will prosecute their appeal to effect, and answer all damages and costs if they fail to make their plea good, and said appeal is allowed accordingly.

A true record:

Attest: ALEX. H. TROWBRIDGE, *Clerk.*

15 Circuit Court of the United States, District of Massachusetts.

In Equity.

GEORGE H. MIFFLIN ET AL. *v.* BENJAMIN F. DUTTON ET AL. } No. 1290.

GEORGE H. MIFFLIN ET AL. *v.* R. H. WHITE COMPANY. } No. 1232.

Opinion of the Circuit Court, March 18, 1901.

COLT, *J.*:

In Holmes *v.* Hurst, the supreme court held that the serial publication of "The Autocrat of the Breakfast Table" in the *Atlantic Monthly*, a periodical magazine, vitiated a copyright of the whole book subsequently obtained by its author, Oliver Wendell Holmes. In the construction of sections 1 and 4 of the act of February 3, 1831, c. 16, the court observed: "The substance of these enactments is

that, by section one, the author is only entitled to a copyright of books not printed and published; and by section four, that, as a preliminary to the recording of a copyright, he must, before publication, deposit a printed copy of the title of such book." 4
16 Stat. 436. In the course of its opinion, the court said: "We have not overlooked the inconvenience which our conclusions will cause, if, in order to protect their articles from piracy, authors are compelled to copyright each chapter or instalment as it may appear in a periodical; nor the danger and annoyance it may occasion to the Librarian of Congress, with whom copyrighted articles are deposited, if he is compelled to receive such articles as they are published in newspapers and magazines; but these are evils which can be easily remedied by an amendment of the law." 174 U. S. 82, 87, 90.

In the two cases at bar it appears from the allegations of the bills that, before any copyright was taken out, the first twenty-nine of the forty-two chapters of "The Minister's Wooing," by Harriet Beecher Stowe, were published in the serial numbers of the *Atlantic Monthly*, beginning with December, 1858, and ending with October, 1859; and that ten of the twelve parts of "The Professor at the Breakfast Table," by Oliver Wendell Holme, were published in the serial numbers of the same magazine, beginning January, 1859, and ending with October, 1859.

In October, 1859, Mrs. Stowe took out a copyright in "The Minister's Wooing" as a whole, before its publication. The notice of copyright inserted in the book was as follows: "Entered according to act of Congress in the year 1859, by Harriet Beecher Stowe, in the clerk's office of the district court of the district of Massachusetts." After the publication of the book, the remaining thirteen chapters of "The Minister's Wooing" were published in the November and December numbers of the *Atlantic Monthly* for the year 1859. The publishers took out a copyright in these numbers of the magazine. The notice of copyright on the page following the title page was as follows: "Entered according to act of Congress, in the year 1859, by Ticknor & Fields, in the clerk's office of the district court of the district of Massachusetts."

By section five of the act of February 3, 1831, 4 Stat. 436, it is provided: "That no person shall be entitled to the benefit of this act, unless he shall give information of copyright being secured,
17 by causing to be inserted, in the several copies of each and every edition published during the term secured on the title page, or the page immediately following, if it be a book, * * * the following words, viz: 'Entered according to act of Congress, in the year ——, by A. B., in the clerk's office of the district court of ——.'"

Upon the authority of *Holmes v. Hurst*, *supra*, the first twenty-nine chapters of "The Minister's Wooing" became public property; and we have only to consider whether a valid copyright exists in the remaining thirteen chapters. It is true that Mrs. Stowe, by taking out a copyright in her whole work in October, 1859, secured a valid copyright in these thirteen chapters. The question is, has she

not vitiated this copyright by failing to insert the proper notice of her copyright in the November and December numbers of the *Atlantic Monthly*, in which this portion of her work was also published? The magazine contained a notice that it was copyrighted by Ticknor & Fields; and it is maintained that this is not a compliance with the notice required by section five of the act of February 3, 1831.

The law seems to be settled that the name of the party taking out the copyright must be inserted in the notice of every edition published; and that the failure to do this vitiates the copyright. A literal compliance with the statute may not be required, but the notice must contain the essentials of the name, claim of exclusive right, and the date when obtained. Under the authorities, I must hold that the insertion of the name "Ticknor & Fields" in the copyright notice in the *Atlantic Monthly* for the months of November and December, 1859, was an insufficient notice of Mrs. Stowe's copyright, and invalidates her right to any copyright in that portion of her book. The contention of the complainants that Ticknor & Fields were the agents for Mrs. Stowe, and that the insertion in the notice of the name of an agent sufficiently satisfies the requirements of the statute, is clearly unsound. *Thompson v. Hubbard*, 131 U. S. 123, 149, 150; *Lithographic Co. v. Sarony*, 111 U. S. 53, 55;
18 *Osgood v. Aloe Instrument Co.*, 83 Fed. Rep. 470; S. C., 69 Fed. Rep. 291; *Hoertel v. Tuch*, 94 Fed. Rep. 844; *Higgins v. Keuffel*, 30 Fed. Rep. 627; S. C., 140 U. S. 428; *Jackson v. Walkie*, 29 Fed. Rep. 15.

In "The Professor at the Breakfast Table" the facts alleged in the bill are somewhat different, although the case is governed by the same principle. The last two parts of this work were published in the December number of the *Atlantic Monthly* for 1859, and a copyright was taken out by Ticknor & Fields in that number. In the latter part of that month, Dr. Holmes entered his entire work for copyright, and subsequently published it, inserting the following notice in his book: "Entered according to act of Congress in the year 1859, by Oliver Wendell Holmes, in the clerk's office of the district court of the district of Massachusetts." A previous copyright having been obtained in the name of the publishers, Ticknor & Fields, the subsequent notice of copyright by Dr. Holmes in his book must be held insufficient under the cases above cited.

The demurrers to the bills are sustained, and the bills are to be dismissed.

19 *Petition for Appeal and Assignment of Errors.*

(Filed May 10, 1901.)

Petition for appeal.

The above-named complainants, considering themselves aggrieved by the final decree in the above-entitled cause sustaining the demurrer and dismissing the bill, hereby petition for an appeal from said decree to the United States circuit court of appeals for the first circuit, that a transcript of the record and a copy of the opin-

ion of the court, filed in said cause, may be transmitted to the circuit court of appeals for the first circuit, and that a citation, in due form, be issued to the said Benjamin F. Dutton, George C. Dutton and Harry Dutton, citing and admonishing them to be and appear in the United States circuit court of appeals for the first circuit, pursuant to said appeal.

By their solicitors, ELDER, WAIT & WHITMAN.

Assignment of Errors.

Now come the complainants in the above-entitled cause, and file with their above petition for appeal this their assignment of errors. The court erred,—

1. In sustaining the demurrer to the bill of complaint.
2. In dismissing the bill of complaint.
3. In holding that Mrs. Stowe failed to give a sufficient notice of her copyright in the copies of the *Atlantic Monthly* for the months of November and December, 1859, and that her copyright was thereby invalidated.

By their solicitors, ELDER, WAIT & WHITMAN.

Bond to Party on Appeal.

(Filed and approved May 10, 1901.)

Know all men by these presents, that we, George H. Mifflin, of Boston, James Murray Kay, of Brookline, Henry O. Houghton, of Cambridge, Massachusetts, Lucy H. Valentine, Oscar R. Houghton and Albert F. Houghton, all of New York city, as principals, and Francis Jackson Garrison, Henry Nathan Wheeler, as sureties, are held and firmly bound unto Benjamin F. Dutton and George C. Dutton, of Malden, and Harry Dutton, of Medford, Massachusetts, in the full and just sum of one thousand dollars, to be paid to the said Benjamin F. Dutton, George C. Dutton, and Harry Dutton, their certain attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this eighteenth day of April in the year of our Lord one thousand nine hundred and one.

Whereas, lately at a circuit court of the United States for the district of Massachusetts, in a suit in equity depending in said court between the said George H. Mifflin, James Murray Kay, Henry O. Houghton, Lucy H. Valentine, Oscar R. Houghton and Albert F. Houghton, complainants, and the said Benjamin F. Dutton, George C. Dutton and Harry Dutton, respondents, a decree was entered against the said complainants, and the said complainants having obtained an appeal to remove said cause to the United States circuit court of appeals for the first circuit, to reverse the decree in the aforesaid suit, and a citation directed to the said respondents citing and admonishing them to be and appear in the said United States

circuit court of appeals for the first circuit, in the city of Boston, Massachusetts, on the seventh day of June, A. D. 1901.

Now, the condition of the above obligation is such, that if the said complainants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then the above obligation to be void; else to remain in full force and virtue.

GEORGE H. MIFFLIN. [SEAL.]
JAS. MURRAY KAY. [SEAL.]
HENRY O. HOUGHTON. [SEAL.]
LUCY H. VALENTINE. [SEAL.]
OSCAR R. HOUGHTON. [SEAL.]
ALBERT F. HOUGHTON, [SEAL.]
By JAS. MURRAY KAY.
FRANCIS JACKSON GARRISON. [SEAL.]
HENRY NATHAN WHEELER. [SEAL.]

Sealed and delivered in presence of
McDONALD ELLIS WHITE.

Approved:
LE BARON B. COLT,
Circuit Judge.

Notice of examination of sureties is hereby waived and I hereby assent to the allowance of the bond.

RALPH W. FOSTER,
Defendants' Solicitor.

21 *Citation on Appeal.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to Benjamin F. Dutton and George C. Dutton, both of Malden, and Harry Dutton, of Medford, all in the State of Massachusetts, all doing business in Boston as copartners under the firm name and style of Houghton & Dutton, Greeting:

You are hereby cited and admonished to be and appear in the United States circuit court of appeals for the first circuit, in the city of Boston, Massachusetts, on the seventh day of June next, pursuant to an appeal duly obtained from a decree of the circuit court of the United States for the district of Massachusetts, wherein George H. Mifflin, of Boston, James Murray Kay, of Brookline, Henry O. Houghton, individually and as trustee with Alberta M. Houghton, both of Cambridge, under the will of Henry O. Houghton, deceased, all within the district of Massachusetts, and Lucy H. Valentine, Oscar R. Houghton and Albert F. Houghton, all of New York, in the State of New York, and all citizens of the United States, copartners under the firm name of Houghton, Mifflin & Company, and having a usual place of business in Boston, in the district of Massachusetts, are appellants, and you are appellees, to show cause, if any there be, why the said decree, entered against

the said appellants, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Le Baron B. Colt, judge of the circuit court of the United States for the district of Massachusetts, this tenth day of May, in the year of our Lord one thousand nine hundred and one.

LE BARON B. COLT,
U. S. Circuit Judge.

Acknowledgment of Service on Citation on Appeal.

BOSTON, MASS., *May* 20, 1901.

Service of the within citation is hereby accepted.

RALPH W. FOSTER,
Defendants' Solicitor.

22 *Clerk's Certificate.*

UNITED STATES OF AMERICA, *District of Massachusetts,* } ss:

I, Benjamin H. Bradlee, deputy clerk of the circuit court of the United States for the district of Massachusetts, within the first circuit, certify that the foregoing is a true copy of the record and all proceedings in the cause in equity entitled,

GEORGE H. MIFFLIN ET AL., Complainants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, } No. 1290,

in said circuit court determined, the opinion of the circuit court of March 18, 1901, the petition for appeal and assignment of errors, the bond to party on appeal, and also the original citation issued upon the appeal of the complainants in said cause, with the acknowledgment of service thereon.

In testimony whereof, I hereunto set my hand and affix the seal of said circuit court, at Boston, in said district, this twenty-ninth day of May, A. D. 1901.

[SEAL.]

BENJ. H. BRADLEE,
Deputy Clerk.

Motion to Amend Bill of Complaint.

(Filed in circuit court of appeals June 6, 1901, and allowed.)

It is moved that the bill may be amended, pursuant to the annexed agreement, by adding thereto the following:

The matter in controversy in this case exceeds in value $1000 besides costs.

ELDER, WAIT & WHITMAN,
Plaintiffs' Attorneys.

Agreement for Amendment to Bill of Complaint.

It is agreed that the bill may be amended by adding thereto the following:

The matter in controversy in this case exceeds in value $1000 besides costs.

ELDER, WAIT & WHITMAN,
Plaintiffs' Attorneys.
RALPH W. FOSTER,
Defendants' Attorney.

23 United States Circuit Court of Appeals for the First Circuit, October Term, 1901.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, Appellees. } No. 387.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
R. H. WHITE COMPANY, Defendant, Appellee. } No. 388.

Appeals from the circuit court for the district of Massachusetts.

Before Putnam, Webb, and Aldrich, JJ.

Opinion of the Circuit Court of Appeals, January 16, 1902.

PUTNAM, *J.:*

The first of these appeals originated in a bill to protect an alleged copyright in a portion of "The Minister's Wooing," and the second in a portion of "The Professor at the Breakfast Table." In each there was a demurrer, a decree dismissing the bill with costs, and an appeal. The alleged copyrights were taken under the act
24 of February 3, 1831, c. 16, 4 Stat. 436, and each claims the benefit of a renewal. Some questions are made about the renewals, but we need not consider them.

Twenty-nine of the forty-two chapters of "The Minister's Wooing" were published in the serial numbers of the Atlantic Monthly, beginning with December, 1858, and ending with October, 1859. In October, 1859, Mrs. Stowe took out a copyright of "The Minister's Wooing" as a whole, and in the book published by her authority a proper notice of this copyright is entered. Subsequent to taking out this copyright, the remaining thirteen chapters were published in the November and December numbers of the Atlantic Monthly for the same year. On the page following the title page of these numbers was printed the following: "Entered according to act of Congress, in the year 1859, by Ticknor & Fields, in the clerk's office of the district court of the district of Massachusetts." All the magazine publications were with the consent of Mrs. Stowe, under a formal contract between her and the publishers.

The bill does not state whether or not Ticknor & Fields took out a copyright of any kind. The circuit court found that the publication of the first twenty-nine chapters without any copyright abandoned them to the public, in which it was undoubtedly correct. It, also, found in substance that, as the remaining thirteen chapters were published with no notice of the copyright except that which we have stated, this, although giving information that somebody had copyrighted something, was not a sufficient notice of a copyright by Mrs. Stowe, even in view of the liberal rulings as to the permissible form of a notice found in *Burrow-Giles Lithographic Company v. Sarony*, 111 U. S. 53, 55, 56, and in other cases of like class. We agree with this proposition; but the case goes farther. The notice given by the publishers of the Atlantic Monthly was clearly a notice of a supposed copyright secured by themselves, and it contained nothing to indicate that it was a notice of one taken by Mrs. Stowe. The presumption, therefore, is that it was a notice of a copyright of so much of the Atlantic Monthly as the publishers
25 were entitled to copyright in their own behalf. They could not then copyright "The Minister's Wooing," because it had already been copyrighted, and there cannot be two successive copyrights of the same publication. To permit this would render possible an extension of the statutory period through which a copyright runs, which, of course, the law will not allow. Therefore, on the whole, the just conclusion is that Ticknor & Fields published the November and December numbers of the Atlantic Monthly, not only without any notice of Mrs. Stowe's copyright which was sufficient in law, but only with one which was presumably a notice of a copyright of their own.

With reference to "The Professor at the Breakfast Table," as the learned judge of the circuit court well said, the sequence of the facts is different, but the case is governed by the same principles. Ten of the twelve parts of this work were published in the serial numbers of the Atlantic Monthly, beginning in January, 1859, and ending in October, 1859, without any notice of any copyright. The remaining two parts were published in the following December number, as to which the bill states that a copyright was obtained by Ticknor & Fields, and a notice thereof given on the page following the title page, in the precise form which we have already stated in regard to "The Minister's Wooing." Afterwards, Dr. Holmes published the entire work in one volume, containing the following notice: "Entered according to act of Congress in the year 1859, by Oliver Wendell Holmes, in the clerk's office of the district court of the district of Massachusetts." In this case, there is an allegation that Dr. Holmes took out a copyright in his own behalf; so that the same observations apply even more positively to the notice given by him which we made with reference to that printed by Ticknor & Fields with regard to "The Minister's Wooing;" that is to say, it was a notice of a copyright taken out by him, and not of that taken out by Ticknor & Fields. While, therefore, as already said, we agree with the line of reasoning of the learned judge of the circuit
26 court, we may add the same conclusion as with reference to

the other case, that, in the volume published by Dr. Holmes, no notice was given, or intended to be given, of the copyright taken out by Ticknor & Fields.

We ought to observe that the publication by Ticknor & Fields was with the authorization of Dr. Holmes, under a contract with him; so that he is chargeable with what was done by them. We ought, also, to add that, while it is possible that, in some aspects of the law, Ticknor & Fields might have obtained a copyright in behalf of themselves and of Dr. Holmes which would have protected the interests of both, and that, thus, Ticknor & Fields might have become a trustee of a copyright in behalf of both, yet there is no allegation in the bill to that effect. Therefore, inasmuch as the copyright taken out by Dr. Holmes was insufficient to protect any part of his volume, because the whole had received prior publication, and, as we have said, there cannot be successive copyrights, and inasmuch, also, as he published the only parts which could be regarded as protected by the prior copyright without giving notice thereof, it necessarily follows that the conclusion of the circuit court that the whole work was, in the end, abandoned to the public, was correct.

In No. 387, *Mifflin v. Dutton, the decree of the circuit court is affirmed, and the costs of appeal are awarded to the appellees.*

In No. 388, *Mifflin v. R. H. White Company, the decree of the circuit court is affirmed, and the costs of appeal are awarded to the appellees.*

27 United States Circuit Court of Appeals for the First Circuit, October Term, 1901.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, Appellees. } No. 387.

Final Decree in Circuit Court of Appeals, January 16, 1902.

This cause came on to be heard October 16, 1901, upon the transcript of the record of the circuit court of the United States for the district of Massachusetts, and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged and decreed as follows: The decree of the circuit court is affirmed, and the costs of appeal are awarded to the appellees.

By the court.

JOHN G. STETSON, *Clerk.*

28 United States Circuit Court of Appeals for the First Circuit.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, Appellees. } No. 387.

Complainants' Appeal.

(Filed in circuit court of appeals February 13, 1902, and allowed.)

The above-named complainants, George H. Mifflin *et al.*, conceiving themselves aggrieved by the decree entered on January 16, 1902, in the above-entitled proceeding, do hereby appeal from said decree to the Supreme Court of the United States, and pray that this their appeal may be allowed, and that a transcript of the record, proceedings and papers, upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

ELDER, WAIT & WHITMAN,
Of Counsel for Complainants.

Boston, Mass, February 4, 1902.

Assignment of Errors.

And now come the complainants in the above-entitled cause and file with their appeal, this their assignment of errors. The court erred:

1. In affirming the decree of the circuit court.

2. In holding that Mrs. Stowe failed to give a sufficient notice of her copyright in the copies of the *Atlantic Monthly* for the months of November and December, 1859, and that her copyright was thereby invalidated.

By their solicitors, ELDER, WAIT & WHITMAN.

29 *Bond to Party on Appeal.*

Know all men by these presents, that we, George H. Mifflin of Boston, James Murray Kay of Brookline, Henry O. Houghton of Cambridge, Massachusetts, Lucy H. Valentine, Oscar R. Houghton and Albert F. Houghton, all of New York city, as principals, and Francis J. Garrison of Lexington and Henry N. Wheeler of Cambridge, as sureties, are held and firmly bound unto Benjamin F. Dutton and George C. Dutton of Malden and Harry Dutton of Medford, Massachusetts, in the full and just sum of one thousand dollars to be paid to the said Benjamin F., George C., and Harry Dutton their certain attorney, executors, administrators, or assigns; to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated the twelfth day of February, in the year of our Lord one thousand nine hundred and two.

Whereas lately at a United States circuit court of appeals for the first circuit in a suit in equity depending in said court between George H. Mifflin *et al.*, complainants, appellants, and Benjamin F. Dutton

et al., defendants, appellees, a decree was rendered against the said appellants and the said appellants having obtained an appeal to remove the said cause to the Supreme Court of the United States to reverse the decree in the aforesaid suit, and a citation directed to the said Benjamin F. Dutton *et al.*, appellees, citing and admonishing them to be and appear in the said Supreme Court of the United States at Washington within thirty days from the date hereof:

Now the condition of the above obligation is such, that if the said appellants shall prosecute their said appeal to effect, and answer all damages and costs, if they fail to make said appeal good, then the above obligation to be null and void; otherwise to remain in full force and virtue.

GEORGE H. MIFFLIN, [SEAL.]
By JAS. MURRAY KAY.
JAMES MURRAY KAY. [SEAL.]
HENRY O. HOUGHTON, [SEAL.]
By JAS. MURRAY KAY.
LUCY H. VALENTINE, [SEAL.]
By JAS. MURRAY KAY.
OSCAR R. HOUGHTON, [SEAL.]
By JAS. MURRAY KAY.
ALBERT F. HOUGHTON, [SEAL.]
By JAS. MURRAY KAY.
FRANCIS J. GARRISON. [SEAL.]
HENRY N. WHEELER. [SEAL.]

Signed, sealed and delivered in presence of
ROGER L. SCAIFE,
4 *Park St., Boston.*

Approved:
Feb. 13, 1902.
W. L. PUTNAM.

Notice of examination of sureties is hereby waived; and I hereby assent to the allowance of this bond.

RALPH W. FOSTER,
Defendants' Solicitor.

30 United States Circuit Court of Appeals for the First Circuit.

GEORGE H. MIFFLIN ET AL., Complainants, Appellants,
v.
BENJAMIN F. DUTTON ET AL., Defendants, Appellees. } No. 387.

Clerk's Certificate.

I, John G. Stetson, clerk of the United States circuit court of appeals for the first circuit, certify that the foregoing transcript in the above-entitled cause, to which this certificate is annexed, contains and is a true copy of the record and all proceedings in said cause lately determined in said circuit court of appeals, the original record thereof remaining in my office, and that annexed hereto is the original citation issued upon the appeal of said complainants to the Supreme Court of the United States.

In testimony whereof, I hereunto set my hand and affix the seal of said United States circuit court of appeals for the first circuit, at Boston, in said first circuit, this third day March, A. D. 1902.

[Seal United States Circuit Court of Appeals, First Circuit.]

JOHN G. STETSON, *Clerk.*

31 *Citation on Appeal.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to Benjamin F. Dutton and George C. Dutton, both of Malden, and Harry Dutton, of Medford, all in the State of Massachusetts, doing business in Boston, in said State, as copartners, under the firm name and style of Houghton & Dutton, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States at Washington with thirty days from the date hereof pursuant to an appeal claimed and allowed by the United States circuit court of appeals for the first circuit in a cause wherein George H. Mifflin of Boston, James Murray Kay of Brookline, Henry O. Houghton, individually and as trustee with Alberta M. Houghton, both of Cambridge, under the will of Henry O. Dutton, deceased, all within the State and district of Massachusetts, and Lucy H. Valentine, Oscar R. Houghton and Albert F. Houghton all of New York in the State of New York, copartners under the firm name of Houghton, Mifflin & Company are complainants and appellants and you are defendants and appellees, to show cause, if any there be, why the decree, entered against the said appellants, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable William L. Putnam U. S. circuit judge, this thirteenth day of February, in the year of our Lord one thousand nine hundred and two.

W. L. PUTNAM,

U. S. Circuit Judge and Judge of the United States Circuit Court of Appeals for the First Circuit, Presiding in the Above-named Cause.

Boston, Mass., Feb. 27, 1902.

Service of the within citation is hereby accepted.

RALPH W. FOSTER,

Solicitor for Defendants, Appellees.

Endorsed on cover: File No. 18,441. U. S. C. C. of appeals, 1st circuit. Term No. 267. George H. Mifflin, James Murray Kay, Henry O. Houghton, individually & as trustee with Alberta M. Houghton under the will of Henry O. Dutton, deceased, *et al.*, copartners, &c., appellants, *vs.* Benjamin F. Dutton, George C. Dutton, & Harry Dutton, copartners under the firm name of & style of Houghton and Dutton. Filed March 7", 1902.

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